



International Tribunal for the Prosecution of
Persons Responsible for Serious Violations of
International Humanitarian Law Committed
in the Territory of the Former Yugoslavia
since 1991

Case No.: IT-03-67-T
Date: 7 March 2011
Original: ENGLISH
French

IN TRIAL CHAMBER III

Before: Judge Jean-Claude Antonetti, Presiding
Judge Frederik Harhoff
Judge Flavia Lattanzi

Registrar: Mr John Hocking

Decision of: 7 March 2011

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC

**DECISION ON THE PROSECUTION'S MOTION TO AUGMENT EXHIBIT
NUMBER P1106 (STATEMENT OF MANOJLO MILOVANOVIĆ)**

The Office of the Prosecutor

Mr Mathias Marcussen

The Accused

Mr Vojislav Šešelj

TRIAL CHAMBER III (“Chamber”) of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (“Tribunal”);

SEIZED of the motion filed publicly on 23 December 2010 (“Motion”)¹ by the Office of the Prosecutor (“Prosecution”) seeking the admission into evidence of the two documents supplementing the earlier statement of Manojlo Milovanović (“Milovanović”) dated 27 April 2010, previously admitted into evidence as Prosecution Exhibit Number P1106 (“Statement of 27 April 2010”), namely:

1. The statement by Milovanović dated 15 December 2010 (“Statement of 15 December 2010”);²
2. The testimony of Milovanović in the Case of *Stanisić and Župljanin*³ dated 7 and 8 December 2010 (“Milovanović Testimony in the Case of *Stanisić and Župljanin*”),⁴

NOTING the motion filed publicly on 19 July 2010 by the Prosecution, seeking the admission of evidence relating to the Mladić Notebooks (“Mladić Notebooks”) as well as the thirteen extracts selected from the said Notebooks (“Extracts from the Mladić Notebooks”),⁵

NOTING the decision rendered on 22 October 2010, whereby the Chamber ordered an expert evaluation in order to resolve the matter of the authenticity of the Mladić Notebooks and ordering the admission into evidence of the Statement of 27 April

¹ “Prosecution’s Motion to Augment Exhibit Number P1106 (ICTY Statement of Manojlo Milovanović)”, public with annexes, 23 December 2010 (“Motion”).

² Motion, paras 1, 3, Annex A.

³ *The Prosecutor v. Mićo Stanisić and Stojan Župljanin*, Case No. IT-08-91 (“Case of *Stanisić and Župljanin*”).

⁴ Motion, paras 1-2, 4, Annex B. Case of *Stanisić and Župljanin*, hearing transcript in English (“T”) 18225-18335.

⁵ “Prosecution’s Motion for Admission of Evidence Relating to Mladić Notebooks and for Leave to Amend its Rule 65ter Witness and Exhibit Lists”, public with annexes, dated 16 July 2010 and filed on 19 July 2010 (then redistributed on 20 July 2010 due to an error in paging)(“Motion of 19 July 2010”), paras 2 and 24 as well as Annex A describing the extracts in question.

2010 and the earlier statement by investigator Erin Gallagher dated 8 July 2010 pursuant to Rule 92*bis* of the Rules of Procedure and Evidence (“Rules”),⁶

NOTING the decision rendered on 7 March 2011 whereby the Chamber *proprio motu* admitted into evidence the Expert Report on the Mladić Notebooks as well as the Annex to the said Expert Report and the Extracts from the Mladić Notebooks,⁷

CONSIDERING that Vojislav Šešelj (“Accused”) did not reply to the Motion within the time-limit of 14 days afforded to him under Rule 126*bis* of the Rules,⁸

CONSIDERING that the Prosecution is seeking the admission into evidence, pursuant to Rules 92*bis* of the Rules, of two exhibits related to Witness Milovanović, namely the statement of 15 December 2010 and the Milovanović Testimony in the Case of *Stanisić and Župljanin* for the purpose of augmenting Exhibit P1106, as the Chamber declined to hear this witness,⁹

CONSIDERING that the Prosecution states that two of the thirteen Extracts from the Mladić Notebooks it is tendering for admission in its Motion of 19 July 2010¹⁰ were taken from the sixth Mladić Notebook; that the pages comprised by the two extracts were not examined by Milovanović during his Statement of 27 April 2010; that the latter acknowledged during his testimony in the Case of *Stanisić and Župljanin* that he only examined the pages bearing ERN Nos 00668-3197 to 00668-3270 from Notebook 6; that the Prosecution likewise asserts that Milovanović subsequently

⁶ “Decision on Prosecution’s Motion for Admission of Evidence Relating to Mladić Notebooks with a Separate Opinion from Presiding Judge Antonetti Attached”, public, 22 October 2010. In that decision, the Chamber declined to rule upon the request to admit into evidence the Extracts from the Mladić Notebooks. The earlier Statement by Milovanović of 27 April 2010 was admitted into evidence under exhibit number P1106.

⁷ “Decision to Admit the Expert Report Concerning the Mladić Notebooks and the Prosecution Request to Admit Evidence Concerning Them and Annexing the Dissent by Presiding Judge Jean-Claude Antonetti”, public, 7 March 2011. See also “Registry Submission of Expert Report Regarding the Mladić Notebooks”, public, 12 January 2011 (“Expert Report”) and the English originals of “Registry Submission Pursuant to Rule 33(B) of Annex to Expert Report Regarding the Mladić Notebooks”, public, 4 March 2011 and Annex A “Handwriting Analysis Report – Annex” which contains those documents bearing ERN Nos 0679-3049 and 0679-3050, 0649-0552, 0649-0553, 0649-0554, 0649-0554 and 0649-0555 as well as an additional document, namely, a typewritten statement, signed by hand, which was nevertheless not used as a reference document for the Expert Report (“Annex to the Expert Report”).

⁸ The Accused received the BCS translation of the Motion on 19 January 2011 (see Procès-verbal of reception of the translation filed on 24 January 2011).

⁹ Motion, paras 1-4.

¹⁰ Motion of 19 July 2010, paras 2 and 24.

attested, in his Statement of 15 December 2010, that he had reviewed all of Notebook 6¹¹ and recognized the handwriting of General Mladić,¹²

CONSIDERING that the Chamber finds that the admission into evidence of the Expert Report and its annexes definitively resolves the issue of the authenticity of the Extracts from the Mladić Notebooks, whose admission was sought in the Motion of 19 July 2010, and that, for this reason, it would be contrary to the principle of judicial economy to admit supplemental exhibits addressing the authentication of the said Extracts,

FOR THE FOREGOING REASONS

PURSUANT TO Rules 54 of the Rules of Procedure and Evidence,

DENIES the Motion.

Done in English and in French, the French version being authoritative.

 /signed/
Jean-Claude Antonetti
Presiding Judge

Done this seventh day of March 2011
At The Hague
The Netherlands

[Seal of the Tribunal]

¹¹ The Chamber notes that these are pages bearing ERN Nos J000-3250-J000-3576.

¹² Motion, paras 2-3.